

HOOVER POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES

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| EFFECTIVE DATE: 03/01/2005 | REVISION DATE: 09/22/2005 | SECTION: 1900.01 |
| SUBJECT: USE OF FORCE PROCEDURES - Guidelines for Use of Less-Lethal Force | APPROVED BY: Nicholas C. Derzis, Chief of Police | |

Purpose:

The purpose of this policy is to describe the legal justification and levels of force that a police officer may use in the performance of his/her job.

A. Legal Disclaimer:

This directive is for departmental use only, and does not apply in any criminal or civil proceedings. The department policy should not be construed as a creation of higher legal standard of safety or care in evidentiary sense with respect to third party claims. Violations of this directive will only form the basis of departmental administrative sanctions. Violations of law will form the basis for criminal and civil sanctions in a recognized judicial setting.

B. Legal Justification:

The Code of Alabama deals with the legal levels of force that law enforcement officers may use in the normal course of their duties. It should be emphasized that when consent or an emergency is not present, and there is not probable cause to make an arrest, the non-consensual touching by a police officer may constitute a crime, as well as result in civil liability. When probable cause exists, criminal and civil liability may still occur if the limits of the law are exceeded.

C. Levels of Resistance:

1. In a majority of cases, some level of physical force will be necessary to effect an arrest or to protect others. That amount of physical force may be as low as placing a hand on a subject's shoulder or arm, and directing that subject to place both hands behind his/her back for handcuffing. Depending on the level of resistance offered, the officer may use techniques that may escalate to physically pinning the subject to respond, to techniques that influence behavior by eliciting pain in order to apply handcuffs using hand/leg strikes, impact weapons, or even the use of a firearm, if the resistance offered is severe. In all cases, only "necessary" force is justified. Any force above that act would be unjustified.

2. For the purpose of this policy, the use of less-lethal force will be examined from two perspectives; resistance and control. Both control and resistance can be in the form of verbal directives or physical action; resistance is defined as actions that are directed from the subject toward the officer.
 - a. *Resistance* is manifested by the subject who attempts to evade an officer's attempts of control. The amount and type of resistance will vary, based on a variety of factors.
 - b. *Control* is the force an officer uses to influence or neutralize the unlawful, physical actions of a subject under arrest. Generally, there are four times an officer is justified in using physical control methods. They are: to stop potentially dangerous and unlawful behavior; to protect the officer or another from injury or death; to protect subjects from injuring themselves; and, in the process of effecting lawful arrests when the subject offers resistance.
 - c. *Justification* of the use of force in the judicial system is measured by two broad standards. First, the officer's use of control methods was initiated by a subject's resistance. Second, the level of physical force used by the officer was "necessary" and not excessive when considering the type of resistance offered by the subject.